

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In the Matter of

Chapter 7

Case No. 11-70412-dte

SYNERGY BRANDS, INC.,

AFFIDAVIT OF SERVICE

Debtor.

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KENNETH KIRSCHENBAUM, as Chapter 7  
Trustee for the Estate of Synergy Brands, Inc.,

Plaintiff,

Adv. Pro. No. 11-8908-dte

-against-

THOMAS BARBELLA, MAIR FAIBISH,  
MITCHELL GERSTEIN, DAVID SHARIN,  
THE CHARLES SCHWAB CORPORATION,  
JP MORGAN CHASE & CO., JANNEY  
MONTGOMERY SCOTT LLC and VANGUARD  
FIDUCIARY TRUST COMPANY,

Defendants.

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STATE OF NEW YORK )

) ss.:

COUNTY OF NASSAU )

EILEEN WAGDA, being duly sworn, deposes and says:

I am not a party to the action, am over 18 years of age and reside at Levittown, New York.

On April 21, 2011, I served a true copy of the annexed **NOTICE OF MODIFIED SUPPLEMENTAL SUMMONS and MODIFIED SUPPLEMENTAL SUMMONS** in the following manner:

BY: Mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) listed below:

Thomas Barbella  
20 Cherry Lane  
Syosset, New York 11791

Mair Faibish  
14 Sabrina Court  
Dix Hills, New York 11746

Mitchell Gerstein  
114 Hidden Ponds Circle  
Smithtown, New York 11787

David Sharin  
1754 Park Street  
Atlantic Beach, New York 11509

The Charles Schwab Corporation  
211 Main Street  
San Francisco, CA 94105  
Attention: Carrie E. Dwyer, General Counsel

JP Morgan Chase & Co.  
National Subpoena Processing  
IN1-4054  
7610 W. Washington Street  
Indianapolis, IN 46231-1335  
Attention: Dennis Howard, Unit Lead

Janney Montgomery Scott, LLC  
1801 Market Street - 8<sup>th</sup> Floor  
Philadelphia, PA 19103  
Attention: Carrie Chelko, Esq. - General Counsel

Vanguard Fiduciary Trust Company  
400 Devon Park Drive  
Wayne, PA 19087-1815  
Attention: Heidi Stam, Esq. - General Counsel  
Legal Dept. - V-26

United States Trustee  
Long Island Federal Courthouse  
560 Federal Plaza  
Central Islip, New York 11722

  
EILEEN WAGDA

Sworn to before me this  
21<sup>st</sup> day of April, 2011

  
NOTARY PUBLIC

TAL HIRSHBERG  
NOTARY PUBLIC, STATE OF NEW YORK  
NO 02HI6212693  
QUALIFIED IN NASSAU COUNTY  
COMMISSION EXPIRES 10/19/2013

# KIRSCHENBAUM & KIRSCHENBAUM, P.C.

KENNETH KIRSCHENBAUM\*  
SAMUEL KIRSCHENBAUM\*\*\*  
JENNIFER A. KIRSCHENBAUM  
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\*\* ADMITTED NY & NJ  
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ANISH MASHETTIWAR  
NEIL E. ASHEN\*\*  
MATTHEW D. BAROCAS

Writer's Direct Ext: 309  
[ssheinwald@KirschenbaumEsq.com](mailto:ssheinwald@KirschenbaumEsq.com)

Re: Kenneth Kirschenbaum, as Trustee v. Thomas Barbella, Mair Faibish, Mitchell Gerstein, David Sharin, The Charles Schwab Corporation, JP Morgan Chase & Co., Janney Montgomery Scott LLC and Vanguard Fiduciary Trust Company, Defendants.

Adv. Pro. No. 11-8908

## NOTICE TO ALL DEFENDANTS

PLEASE TAKE NOTICE that the previously served Supplemental Summons in the above-referenced adversary proceeding, which set May 10, 2011 at 2:00 p.m. as the date and time of the pre-trial conference, was served in error and should be disregarded. The Supplemental Summons was modified to the extent that the date and time of the pre-trial conference was re-scheduled for June 14, 2011 at 2:00 p.m. A copy of the modified Supplemental Summons is enclosed herewith.

Any questions concerning the scheduling of the pre-trial conference may be directed to the undersigned counsel for the Trustee.

Dated: Garden City, New York  
April 21, 2011

KIRSCHENBAUM & KIRSCHENBAUM, P.C.  
Attorneys for Plaintiff

By: Steven B. Sheinwald  
Steven B. Sheinwald  
200 Garden City Plaza, 5<sup>th</sup> Floor  
Garden City, NY 11530  
Tel: (516) 747-6700, x309

**UNITED STATES BANKRUPTCY COURT**  
**Eastern District of New York**

*NOTE: All documents filed in this matter must be identified by both  
adversary and bankruptcy case numbers, case chapter and judge's initials.*

In re: Synergy Brands, Inc.

Bankruptcy Case No.: 8-11-70412-dte

Kenneth Kirschenbaum

Plaintiff(s),

—against—

Adversary Proceeding No. 8-11-08908-dte

Thomas Barbella  
Mair Faibish  
Mitchell Gerstein  
David Sharin  
The Charles Schwab Corporation  
JPMorgan Chase & Co.  
Janney Montgomery Scott LLC  
Vanguard Fiduciary Trust Company

Defendant(s)

**SUPPLEMENTAL SUMMONS AND NOTICE OF PRETRIAL CONFERENCE  
IN AN ADVERSARY PROCEEDING**

YOU ARE SUMMONED and required to submit a motion or answer to the complaint which is attached to this summons to the clerk of the bankruptcy court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall submit a motion or answer to the complaint within 35 days.

**Address of Clerk:**

**United States Bankruptcy Court  
290 Federal Plaza, P.O. Box #9013  
Central Islip, NY 11722-9013**

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

**Name and Address of  
Plaintiff's Attorney:**

**Fletcher Strong  
Kirschenbaum & Kirschenbaum PC  
200 Garden City Plaza  
Suite 500  
Garden City, NY 11530**

If you make a motion, your time to answer is governed by Bankruptcy Rule 7012.

YOU ARE NOTIFIED that a pretrial conference of the proceeding commenced by the filing of the complaint will be held at the following time and place.

**Location:**

**United States Bankruptcy Court, Long Island Federal Courthouse, 290  
Federal Plaza – Room 760, Central Islip, NY 11722-9013**

**Date and Time:**

**June 14, 2011 at 02:00 PM**

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR  
CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT  
MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Dated: April 11, 2011

Robert A. Gavin, Jr., Clerk of the Court

**Summons** [Summons and Notice of Pretrial Conf. rev. 03/16/2009]